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FARAD CONTINUATION SHEET

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO. 1404 OF 2005.

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Mr.Shirish Gupte with Mr. A.P. Mundargi with N.A. George i/b Ganesh Gole for the petitioner.

Mr.R.E. Lambay, P.P. for the respondent No.1-CBI.

CORAM: S.S. PARKAR &
ANOOP V. MOHTA, JJ.

DATED: 30TH AUGUST, 2005.

P.C.:

. Heard both sides at length. This Petition is filed for return of the documents belonging to the petitioners and the cash of Rs.13,00,000/- seized by the CBI on 2nd February, 2005. Petitioners also seek direction against the respondent No.1 to permit petitioners to operate their Bank Accounts which have been freezed by the respondent No.1-CBI.

2. The first and foremost objection raised on behalf of the respondent is about the jurisdiction of this Court under Article 226 of the Constitution. On behalf of the petitioners, it is contended that since the property is situated in the State of Maharashtra, the documents pertaining thereto and the seizure of some cash made in Maharashtra will be subject to jurisdiction of this Court under Article 226 of the Constitution.

3. It is not in dispute that the CBI has filed FIR in Delhi against the husband of the petitioner No.1 and the son-in-law of petitioner Nos.2 and 3. The petitioner No.1 is also made co-accused. The seizure of the documents and some cash made in the State of Maharashtra is, according to the CBI, made in connection with the alleged offences committed by the petitioner No.1 and her husband. It is, therefore, doubtful whether this Court can exercise jurisdiction under Article 226 of the Constitution as there may be conflict of orders passed by a Court in Delhi and this Court. On behalf of petitioners, it was strenuously

argued that the petitioner Nos.2 and 3 who are not accused persons and whose documents have been seized only because they happen to stay with their daughter i.e. petitioner No.1, should not be driven to Delhi to make application to the Court in Delhi, specially in respect of the property which cannot be connected with the accumulation of wealth by the main accused i.e. husband of petitioner No.1. Mr. Lambay appearing for the respondents has brought to our notice certain facts which are stated in the Affidavit of the CBI. The CBI had not seized the cash of Rs.65,00,000/- which are stated to be the sale proceeds of the property belonging to petitioner No.2 and that the said amount is in the possession of the petitioner Nos.2 and 3 which may be used by them. After obtaining instructions from the Officer, Mr. Lambay also states that CBI would return all the documents belonging to petitioner Nos.2 and 3 which are not concerned in the complaint which is lodged against the petitioner No.1 and her husband but, according to him, it would take some time, at least a period of two months, for the CBI to find out which documents do not pertain to this

case. He also stated that the respondent would allow the petitioners to operate their Bank Accounts by taking undertaking from them to retain the minimum balance which was there on the date of seizure.

4. In view of the statements made by Mr. Lambay which, according to him, have been made pursuant to the instructions received from the Officer of respondent No.1 who is present in Court today, Mr. Gupte does not press this Petition.

5. If any other application in relation to this subject matter is required to be made by the petitioner, the same shall be made to the Investigating Agency or to the Court in Delhi.

6. Writ Petition is, therefore, dismissed as not pressed. Rule is discharged.

[S.S. PARKAR, J.]

[ANOOP V. MOHTA, J.]